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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,773	04/02/2002	John William Richardson	RCA 90195	2617

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Joseph S Tripoli
Thomson Multimedia Licensing Inc
PO Box 5312
Princeton, NJ 08543-5312

EXAMINER	
TAYLOR, BARRY W	
ART UNIT	**PAPER NUMBER**
2643	

DATE MAILED: 03/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/089,773	RICHARDSON ET AL.	
	Examiner	Art Unit	
	Barry W Taylor	2643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 December 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *21-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *21-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *02 April 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

1. Claims 21-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaplan et al (6,141,339 hereinafter Kaplan) in view of Gerszberg et al (6,359,881 hereinafter Gerszberg).

Regarding claims 21 and 29. Kaplan teaches a system and method for providing a telephone service in a digital subscriber loop environment (see loop environment figure 2), comprising:

a signal digitizer capable (see 206 figure 2 to provide voice or data over ATM using modem 208 figure 2) of receiving traffic from one or more signal splitters, said signal digitizer converting an analog signal into a digital signal in a format in the event of a failure at the customer site, said first format being an ATM-compatible format (see figure 2 wherein interface 204 receives analog signals from telephony 210 and 212, next the analog signal is converted into ATM 206 figure 2); and

said digitizer coupling the digital signal in the first format to an ATM switch connected to a telco switch (see 206 figure 2 to provide voice or data over ATM using modem 208 figure 2).

Kaplan does not show failure at customer site considered.

Gerszberg teaches loop network service architecture wherein a lifeline is provided for continuous telephony service in the event of a power failure at the CPE (see 126 figure 2). The lifeline is utilized to connect interface device to the local telephone company's central office (col. 7 lines 19-60). Gerszberg teaches converting analog to digital so that customers can still have service over ATM-type connection (col. 10 lines 10-22).

Therefore, it would have been obvious for any one of ordinary skill in the art at the time of invention to utilize the teaching of Gerszberg into the teachings of Kaplan in order to provide backup ATM-type service when failure at customer premises is occurring.

Regarding claim 22. Kaplan teaches wherein the telephone service is a POTS (col. 2 line 65 – col. 3 line 8).

Regarding claim 23. Gerszberg further teaches the analog signal is coupled to digitizer via telephone wires (see figure 4A wherein when failure occurs at customer premises the customer still receives service by the analog lines (see 30 figure 4A) being connected via telephone wires (see wires entering line cards 196 figure 4A before they are sent back to network)).

Regarding claim 24. Gerszberg teaches power failure at customer site (col. 10 lines 10-22).

Regarding claim 25. Kaplan teaches the digitizer connected between one or more signal splitters and the ATM switch (see figure 2 wherein interface 204 receives analog signals from telephony 210 and 212, next the analog signal is converted into ATM 206 figure 2).

Regarding claim 26. Kaplan teaches a system and method for providing a telephone service in a digital subscriber loop environment (see loop environment figure 2), comprising:

receiving an analog signal (see 206 figure 2 to provide voice or data over ATM using modem 208 figure 2) of receiving traffic from one or more signal splitters, said signal digitizer converting an analog signal into a digital signal in a format in the event of a failure at the customer site, said first format being an ATM-compatible format (see

figure 2 wherein interface 204 receives analog signals from telephony 210 and 212, next the analog signal is converted into ATM 206 figure 2);

Kaplan does not show failure at customer site considered.

Gerszberg teaches loop network service architecture wherein a lifeline is provided for continuous telephony service in the event of a power failure at the CPE (see 126 figure 2). The lifeline is utilized to connect interface device to the local telephone company's central office (col. 7 lines 19-60). Gerszberg teaches converting analog to digital so that customers can still have service over ATM-type connection (col. 10 lines 10-22).

Therefore, it would have been obvious for any one of ordinary skill in the art at the time of invention to utilize the teaching of Gerszberg into the teachings of Kaplan in order to provide backup ATM-type service when failure at customer premises is occurring.

Regarding claim 27. Kaplan teaches wherein the telephone service is a POTS (col. 2 line 65 – col. 3 line 8).

Regarding claim 28. Gerszberg teaches power failure at customer site (col. 10 lines 10-22).

Regarding claim 30. Kaplan teaches the digitizer connected between one or more signal splitters and the ATM switch (see figure 2 wherein interface 204 receives analog signals from telephony 210 and 212, next the analog signal is converted into ATM 206 figure 2).

Response to Arguments

2. Applicant's arguments filed 12/20/2004 have been fully considered but they are not persuasive.

a) Regarding Applicant's comment at the bottom of page 6, paper dated 12/20/2004 wherein Applicant's argue that the combination of Kaplan and Gerszberg would result in bypassing of the analog signal at the customer location and the same would be delivered to the DSL network of Kaplan.

The Examiner notes that Gerszberg (col. 10 lines 10-22) firsts converts the analog signal into digital before transmitting over ATM-type network.

3. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231
or faxed to:
(703) 872 9314,
(for informal or draft communications, please label "PROPOSED" or "DRAFT")
Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barry W. Taylor, telephone number (703) 305-4811, who is available Monday-Friday, 6:30am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz, can be reached at (703) 305-4708. The facsimile phone number for this group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 2600 receptionist whose telephone number is (703) 305-4750, the 2600 Customer Service telephone number is (703) 306-0377.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Barry W. Taylor
Patent Examiner
Technology Center 2600
Art Unit 2643